

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Thomas Edward Kiley,)	CASE NO. 1:13 CV 2666
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
vs.)	
)	
Bennie Kelly,)	<u>Memorandum of Opinion and Order</u>
)	
Respondent.)	

Introduction

This matter is before the Court upon the Report and Recommendation of Magistrate Judge William H. Baughman, Jr. (Doc. 9) which recommends the denial of the Petition for Writ of Habeas Corpus pending before this Court. Petitioner did not file Objections to the Report and Recommendation. For the following reasons, the Report and Recommendation is ACCEPTED.

Standard of Review

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, “The judge must determine *de novo* any proposed finding or

recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.” When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

Discussion

Petitioner was convicted after a jury trial in the Lorain County Court of Common Pleas in December 2008 on charges of domestic violence, kidnapping with a sexual motivation, and rape. The Magistrate Judge found that the majority of the sub-claims in ground one, ground three, ground four, and ground five were all procedurally defaulted and recommended dismissal. The Magistrate Judge concluded that the remainder of ground one should be denied on the merits because the state court’s decision on the claim was not an unreasonable application of clearly established law. Finally, the Magistrate Judge recommended that ground two be denied because the state court’s decision was not an unreasonable application of clearly established federal law. The Court has reviewed the Report and Recommendation and has found no clear error. Accordingly, for the reasons stated in the Report and Recommendation, which is incorporated herein, the Petition for Writ of Habeas Corpus is denied.

Conclusion

Accordingly, the Report and Recommendation is accepted. The Petition for Writ of Habeas Corpus is denied. Furthermore, for the reasons stated herein and in the Report and Recommendation, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from

this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 4/17/15